

STATE OF VERMONT
PUBLIC SERVICE BOARD

Docket No. 7083

Petition of Vermont Electric Cooperative, Inc. for a)
declaratory ruling to interpret and define terms in)
General Order No. 51)

Order entered: 9/6/2005

I. INTRODUCTION

On July 25, 2005, Vermont Electric Cooperative, Inc. ("VEC") filed a petition with the Vermont Public Service Board ("Board") requesting a declaratory ruling that a 34.5 kV line extension to be constructed in Brunswick, Vermont, is not a transmission line subject to 30 V.S.A. § 248. VEC states that the proposed line extension is intended to serve a single customer, the U.S. Fish & Wildlife Service, which is constructing a new facility off Route 105 in Brunswick, Vermont.

On July 26, 2005, the Board requested that VEC provide, by August 5, 2005, in the form of supplemental testimony, a description of the function of the existing segment of 34.5 kV line between the Island Pond substation and the line's termination at Bloomfield. The Board requested that the supplemental testimony (1) include a description of the line's termination at Bloomfield (i.e., whether a substation exists at this location, and, if not, how existing individual customers are eventually served by this segment of 34.5 kV line), and (2) specifically state whether existing individual customers are currently being served directly¹ from this segment of 34.5 kV line. The Board invited comments from the Vermont Department of Public Service ("Department"), the Vermont Agency of Natural Resources ("ANR"), and the Town of Brunswick, Vermont, by August 17, 2005.

On August 4, 2005, VEC filed supplemental testimony in response to the Board's memorandum of July 26, 2005. No comments were received on VEC's filings.

1. "Served directly," as defined in the Board's memorandum of July 26, 2005, means the service from the 34.5 kV line to individual customers is physically interrupted only by a transformer and service drop.

On August 19, 2005, the Department filed a Stipulated Proposal for Decision in this matter. The Department stated that it and VEC agree that the Board should issue the requested declaration, and that the Department waives its rights under 3 V.S.A. § 811 to review and comment upon a Proposal for Decision provided that the Board's Order in this matter is materially consistent with the Stipulated Proposal for Decision.

II. FINDINGS

1. VEC is a Vermont corporation. VEC is an electric cooperative authorized to serve the public in its designated service territories pursuant to the rules and regulations of the Board. Pet. at 1.

2. The U.S. Fish & Wildlife Service is constructing a new facility in Brunswick, Vermont, and has requested that three-phase service be provided at 208/120 volts to the new facility. To serve this new facility, VEC proposes to construct an approximately 250-foot radial extension off of the existing 34.5 kV line along Route 105 between Island Pond and Bloomfield, Vermont. The radial extension would terminate at a pad-mounted transformer near the new facility. Abendroth supp. pf. at 2; exh. HRA-1.

3. The proposed line extension is for the sole purpose of serving a single customer, whose service will be physically interrupted by the proposed transformer at the facility. VEC does not anticipate that other distribution customers will take service from the line. Abendroth pf. at 2, 3.

4. Although the proposed line extension will be designed to operate at a voltage higher than 30 kV, it will not have as its primary purpose either "the delivery of electric power in bulk to a distribution system" or the interconnection of portions of an electric system for area reliability purposes. Abendroth pf. at 3.

5. The existing 34.5 kV line between the Island Pond substation and Bloomfield directly serves approximately 80 customer-members in the towns of Brighton, Ferdinand, Brunswick, and Bloomfield. Electric energy is delivered to these customers by means of single-phase pole-mounted transformers rated at 19.9 kV primary voltage and a secondary voltage of 120/240 volts. Abendroth supp. pf. at 1.

6. VEC does not currently serve any three-phase customers on the existing 34.5 kV line between the Island Pond substation and Bloomfield. Abendroth supp. pf. at 1.

7. The existing 34.5 kV line terminates in Bloomfield at two (2) single-phase transformers, mounted on an elevated wood platform within the 34.5 kV line's right-of-way, near the intersection of Vermont Routes 102 and 105. One transformer is connected to the "A" phase of the 34.5 kV line, while the other transformer is connected to the "C" phase of the 34.5 kV line. Each transformer is used to reduce the voltage of one phase of the 34.5 kV line from 19.9 kV to 7.2 kV. There is no 19.9/7.2 kV transformer on the "B", or center, phase of the 34.5 kV line; this phase terminates at the location of the transformers. Abendroth supp. pf. at 2.

8. The "A" phase transformer and its associated 7.2 kV distribution line segment serve VEC's members south of Route 105 in Brunswick, Maidstone, and Guildhall. The "C" phase transformer and its associated 7.2 kV distribution line segment serve VEC's members north of Route 105 in Brunswick, Bloomfield, and a portion of Lemington. Approximately 590 customers can be served by these two line segments. Abendroth supp. pf. at 2-3.

9. The Public Service Company of New Hampshire ("PSNH") lines in the vicinity of Bloomfield are operated at 12.47/7.2 kV. VEC does not have the transformation capability at Bloomfield that would be needed to feed the 34.5 kV line from PSNH. Abendroth supp. pf. at 3.

10. The Department has reviewed VEC's petition and prefiled testimony and agrees that the line extension is a distribution line, not a transmission line. Stipulated Proposal for Decision at 2.

III. DISCUSSION

VEC requests that the Board specifically declare and determine that, for purposes of jurisdiction under 30 V.S.A. § 248 and interpretation of the Board's General Order No. 51 ("G.O. 51"), the proposed line extension in Brunswick, Vermont, as described in the prefiled testimony and supplemental prefiled testimony of Harry R. Abendroth and shown on exh. HRA-1 is not a

tie line or transmission line. VEC seeks this declaratory ruling pursuant to Board Rule 2.403² and G.O. 51.³ G.O. 51 states, in relevant part:

A transmission line within the meaning of 30 V.S.A. § 248 . . . is a line and related facilities whose primary purpose is the delivery of electric power in bulk to a distribution system or portion thereof which serves individual customers. The Public Service Board will assume that each of the following two types of lines are transmission lines within the meaning of 30 V.S.A. § 248 . . . in the absence of a specific declaration by the Public Service Board to the contrary: (1) any line or facility designed to operate or capable of operating over 30 kV; and (2) any tie-line designed to operate or capable of operating at any voltage. A tie line is a line whose primary purpose is to interconnect portions of an electric system for area reliability purposes. Specification (1) above does not exclude any line of lower voltage if it would function primarily as a transmission line within the meaning of the first sentence of this definition.

A distribution line (or facility) whose principle purpose is to serve individual customers, and whose service to individual customers is physically interrupted only by a transformer and service drop, remains under the jurisdiction of the Environmental Board⁴ and District Environmental Commission

The Board has previously addressed similar requests. On June 17, 1994, November 8, 1994, and August 31, 1995, the Board issued Orders in Docket Nos. 5738, 5759, and 5834 in response to petitions filed by Central Vermont Public Service Corporation ("CVPS"), Citizens Utilities Company ("Citizens"), and Green Mountain Power Corporation ("GMP"), respectively. In those Orders, the Board declared and determined for CVPS, Citizens, and GMP that for purposes of jurisdiction under 30 V.S.A. § 248 and interpretation of G.O. 51, the following definitions are adopted:

An "electric transmission facility" within the meaning of 30 V.S.A. § 248 is a line and/or related facilities (including any substation), the purpose of which is the

2. Rule 2.403 Petitions for Declaratory Rulings

Pursuant to 3 V.S.A. § 808, an interested person may petition the Board for a declaratory ruling as to the applicability of any statutory provision or of any rule or order of the Board. The petition shall identify the statute, rule or order involved, shall include a proposed order of notice and shall be accompanied by a brief which conforms to the requirements of Rule 2.223.

3. As an initial matter, we note that it is questionable whether VEC's petition presents an actual or justiciable controversy appropriate for a declaratory ruling pursuant to Rule 2.403. *See Town of Cavendish v. Vermont Pub. Power Supply Auth.*, 141 Vt 144, 147, 446 A. 2d 792, 794 (1982). However, we conclude that we need not resolve this question because G.O. 51 itself provides for the Board to issue a "specific declaration" such as that which VEC requests.

4. Effective February 1, 2005, the Environmental Board has been replaced by the Natural Resources Board.

transporting of electric power at any voltage in bulk from a source or sources of supply to other principal parts of the system or to a distribution system.

A "distribution line or facility" is a line and/or related facilities (including pad or pole mounted line transformers), the purpose of which is to serve individual customers at any voltage not to exceed 34.5 kV; this definition does not include any line and/or facilities at any voltage if such lines and/or facilities function as a transmission facility.⁵

In Docket Nos. 5738 and 5834, the Board cited Board letter Orders which granted exemption of certain lines from the requirements of 30 V.S.A. § 248 as interpreted by G.O. 51, for the following two cases:

(1) reconstruction of existing distribution lines in the same right of way where the reconstruction is done with insulators capable of operation at 34.5 kV; and (2) new distribution lines which are designed directly to serve retail customers which lines are insulated at 34.5 kV and which have a length of less than 2,200 feet.

Another Board precedent that is instructive is provided by Dockets 5625/5635. In those Dockets, the Board required Section 248 approval for a 46 kV line extension constructed by Citizens Utilities Company in Jay, Vermont.⁶ The Citizens line that was the subject of Dockets 5625 and 5635 was three miles long, constructed to be operated at 46 kV, and ultimately terminated at a newly-relocated 46/12.47 kV substation, which in turn served three outgoing 12.47 kV distribution lines. Therefore, the purpose of the Citizens 46 kV line was the delivery of electric power in bulk to a distribution system. In contrast, the 250-foot line extension proposed in Docket 7083 is intended to directly serve a single customer.

5. The intent of these definitions is to make it clear that the Public Service Board has jurisdiction over lines that carry bulk power between sources (which may include generators, other transmission lines, and substations) and substations or other parts of the system, for further distribution or wholesale consumption, even though there may be some distribution directly from the line. Pursuant to these definitions, distribution lines and facilities are under the jurisdiction of the Natural Resources Board and District Environmental Commission as provided by 10 V.S.A. § 6001, et. seq. Transmission lines and facilities, regardless of voltage, are under the jurisdiction of the Public Service Board as provided by 30 V.S.A. § 248. Tie lines, which are not specifically included in the above definitions, fall into either definition based upon whether: (1) such lines provide an enhanced reliability or supply source to the distribution system or to another portion of the transmission system (transmission, under § 248); or (2) such lines merely connect nearby distribution lines or a "loop" to a distribution line (distribution, under Act 250).

6. In Docket 5625, the Board imposed a penalty on Citizens because Citizens commenced site preparation and construction of the line prior to obtaining Board approval. In Docket 7083, VEC has followed the proper procedure by requesting whether Board approval is required for VEC's proposed line extension, and this comparison should not imply otherwise. The comparison of the electric line in Dockets 5625/5635 to the electric line in Docket 7083 is only for the purpose of differentiating the physical and/or electrical aspects of the lines.

We conclude that VEC's proposed 34.5 kV line extension in Brunswick, Vermont, as described in Findings 2 through 4, is not an electric transmission facility, and thus is not subject to the Board's jurisdiction under 30 V.S.A. § 248.⁷ We further conclude that VEC's proposed 34.5 kV line extension is a distribution line, as defined in G.O. 51, and is a distribution line or facility, as defined in the Orders of 1994 and 1995 cited above. In reaching these conclusions, we have relied primarily upon the evidence that the function of the proposed line extension is to serve a single customer directly. Accordingly, the primary purpose of the proposed line is not the delivery of electric power in bulk to a distribution system, nor is the purpose of the proposed 250-foot radial line to interconnect portions of an electric system for area reliability purposes.

IV. ORDER

IT IS HEREBY ORDERED, ADJUDGED AND DECREED by the Public Service Board of the State of Vermont that:

1. The Board hereby declares and determines that the 34.5 kV line extension proposed by VEC in Brunswick, Vermont, as described in the prefiled testimony and supplemental prefiled testimony of Harry R. Abendroth and shown on exh. HRA-1, is not an electric transmission facility, and is therefore not subject to the Board's jurisdiction under 30 V.S.A. § 248.
2. Today's declaration is valid for only the proposed line extension which is the subject of this petition.

7. VEC requests that we declare that the proposed line extension is not a tie line or transmission line. In our declaration, we have instead used the term "electric transmission facility" because that is the term that appears in Section 248.

Dated at Montpelier, Vermont, this 6th day of September, 2005.

<u>s/James Volz</u>)	
)	PUBLIC SERVICE
)	
<u>s/David C. Coen</u>)	BOARD
)	
)	OF VERMONT
<u>s/John D. Burke</u>)	

OFFICE OF THE CLERK

FILED: September 6, 2005

ATTEST: s/Judith C. Whitney
Deputy Clerk of the Board

NOTICE TO READERS: This decision is subject to revision of technical errors. Readers are requested to notify the Clerk of the Board (by e-mail, telephone, or in writing) of any apparent errors, in order that any necessary corrections may be made. (E-mail address: Clerk@psb.state.vt.us)